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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/768,614

01/30/2004

Robert G. DeMoor

TI-35548

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EXAMINER

LE, TUAN H

ART UNIT

PAPER NUMBER

2622

NOTIFICATION DATE

DELIVERY MODE

05/11/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@ti.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/768,614	<b>Applicant(s)</b> DEMOOR, ROBERT G.	
	<b>Examiner</b> TUAN H. LE	<b>Art Unit</b> 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 8-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Response to Arguments***

Applicant's arguments filed 3/18/09 have been fully considered but they are not persuasive.

Specifically, applicant's submits that Pope (US 2004/0070679) is devoid from disclosing a simulated optical image acquisition followed by a time delay and later followed by an actual image acquisition, Remarks, page 5 lines 20-22. However, the Examiner respectfully disagrees. It is noted that the arguments is not related to the exact recitation of the claimed features. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**1/ Claims 1, 8, 9, 13 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Pope (US 2004/0070679).**

Regarding **claim 1**, Pope discloses

a digital camera comprising:

a photosensitive region (sensor 16) for recording an optical image of a human subject (Pope, Fig. 1);

a controllable shutter (70) for exposing the photosensitive region (Pope, Fig. 1 and Fig. 2, wherein the shutter release has two stages in step 120 and step 170); and

a timer (inherent part), the timer providing a selected time delay between simulated optical image acquisition (first state of release button 70) and an actual optical image acquisition (second state of release button 70), (Pope, paragraphs [0027] and [0028], wherein photographer's lag is selected).

Regarding **claim 8**, same ground of rejection as in claim 1 is applied.

Regarding **claim 9**, same grounds of rejection as in claims 2 and 3 are applied.

Regarding **claim 13**, Pope discloses all of the limitations of the parent claim.

Additionally, Pope discloses

a first mode of operation (second-stage shutter release), the digital camera in the first mode acquiring an image of the subject in response to user input in the first mode of operation (Pope, Fig. 2, steps 170,210, 220, wherein an image with predetermined featured is kept when shutter release is in second stage.); and

a second mode of operation (first-stage shutter release), the digital camera simulating acquiring an image of the subject in response to user input in the second mode of operation, the digital camera acquiring an image at a pre-selected time after simulating acquiring image (Pope, Fig. 2, wherein images are captured and stored in buffer in steps 130, 140,150 after photographer's lag is selected).

Regarding **claim 14**, Pope discloses all of the limitations of the parent claim.

Additionally, Pope discloses

a first mode of operation (first-stage shutter release), the digital camera acquiring an image of the subject in response to user input in the first mode of operation (Pope, Fig. 2, wherein images are captured and stored in buffer in steps 130, 140,150); and

a second mode of operation (second-state shutter release), the digital camera selecting for acquisition and image of the subject having predetermined features (Pope, Fig. 2, steps 170,210, 220, wherein an image with predetermined featured is kept).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**2/ Claim 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pope (US 2004/0070679) in view of Wada (US 2004/0141089).**

Regarding **claim 2**, Pope discloses all of the limitations of the parent claim.

However, Pope does not disclose

A simulated image acquisition is accompanied by sounds of typical shutter operation.

On the other hand, Wada discloses

a simulated image acquisition is accompanied by sounds of typical shutter operation (Wada, paragraph [0079], wherein shutter sound indicates image shooting).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the shutter sound of image shooting as described by Wada into the digital camera as described by Pope so as to notify people in the surrounding environment of the image shooting because such incorporation enhances camera interface with people in a low-noise environment for different purposes, such as a museum where camera use is monitored.

Regarding **claim 3**, Pope discloses all of the limitations of the parent claim. However, Pope does not disclose

a flash mechanism, the flash mechanism receiving low-power activation during the simulated image acquisition.

On the other hand, Wada discloses

a flash mechanism, the flash mechanism receiving low-power activation during the simulated image acquisition (Wada, paragraph [0079], wherein flash light indicates image shooting).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the flash light of image shooting as described by Wada into the digital camera as described by Pope so as to notify people in the surrounding environment of the image shooting because such incorporation enhances camera interface with people in a low-light environment for different purposes, such as a museum where camera use is monitored.

**3/ Claims 10-12, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pope (US 2004/0070679) in view of Chatani et al (U.S. Pub. 2004/0075743 A1).**

Regarding **claim 10**, Pope teaches the method of claim 8. However, Pope does not teach

providing a program associated with a processing unit for identifying the predetermined features;

acquiring a series of images and applying the images to the processing unit; and analyzing the images using the program.

On the other hand, Chatani et al discloses

providing a program associated with a processing unit (306) for identifying the predetermined features (see Chatani et al, Fig. 3, paragraph [0012], wherein a computer program obtains image selection parameters);

acquiring a series of images and applying the images to the processing unit (see Chatani et al, paragraph [0011], wherein the imaging device is capable of capturing image data for a plurality of digital images); and

analyzing the images using the program, (see Chatani et al, Fig. 8 step 808, wherein subset of images with specified parameters is generated).

Therefore, it would have been obvious to an artisan to combine image analysis by using the program as disclosed by Chatani et al with the method as disclosed by Pope in order to analyze a series of images because such combination provides

automatic selection of digital photographs based on user provided criteria and allows user to preview images under various conditions, (Chatani et al, paragraph [0009]).

As for **claim 11**, as previously mentioned in the discussion of claim 10, Pope and Chatani et al disclose all of the limitations of the parent claim. In addition, Chatani et al discloses that the first image in which the predetermined feature is identified is stored, (see Chatani et al, Fig. 4, wherein image in the buffer 410 is stored in memory 412).

As for **claim 12**, as previously mentioned in the discussion of claim 10, Pope and Chatanie et al discloses all of the limitations of the parent claim. In addition, Chatani et al discloses that the acquiring of a series images is provided in response to signals from a timing unit (see Chatanie et al, paragraphs [0007] and [0011], wherein multiple images are capture in high rate photography).

Regarding **claim 15**, Pope discloses all of the limitations of the parent claim. However, Pope does not disclose

the predetermined features are determined by a pattern recognition program

On the other hand, Wada discloses

the predetermined features are determined by a pattern recognition program (see Chatanie et al, paragraphs [0011] and [0012], wherein image selection parameters are entered).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine image capture with specified parameter as described by Chatanie et al with the digital camera as described by Pope in order to



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selectively store desired images because such combination saves time to search through a whole image database for a certain image.

Regarding **claim 16**, Pope discloses all of the limitations of the parent claim.

However, Pope does not disclose

the predetermined features are facial expression.

On the other hand, Wada discloses

the predetermined features are facial expression (see Chatani et al, paragraph [0053], wherein semantic parameters include closed eyes, crossed eye)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine image capture with semantic parameters as described by Chatanie et al with the digital camera as described by Pope in order to selectively store desired images because such combination saves time to search through a whole image database for a certain image.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUAN H. LE whose telephone number is (571)270-1130. The examiner can normally be reached on M-Th 7:30-5:00 F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tuan H Le/  
Examiner, Art Unit 2622

/Jason Chan/  
Supervisory Patent Examiner, Art Unit 2622